Hobart, Jamie

From: Robert Crook <ccsct@comcast.net>
Sent: Tuesday, March 01, 2016 6:02 PM
To: pstestimony
Cc: James Crook
Subject: Testimony HB 5408 3/3/16

COALITION OF CONNECTICUT SPORTSMEN

P.O. Box 2506, Hartford, CT 06146, (203) 245-8076

www.ctsportsmen.com ccsct@comcast.net

Testimony presented to the public safety and security committee

IN OPPOSITION to (RAISED) HB 5408 AN ACT CONCERNING THE PRESENTATION OF A CARRY PERMIT.

by Robert T. Crook,
Director

March 3, 2016

HB 5408 would allow police officers to demand that Connecticut handgun permit holders present their permit if the officer has reason to believe they are carrying a handgun. As such, HB 5408 violates a citizens' freedom from unreasonable search and seizure guaranteed by the U.S. Constitution. This bill infringes on the rights of those who choose to exercise their Second Amendment right to Keep and Bear Arms, while doing nothing to deter criminals.

The issue arose when police were called to investigate a person carrying a firearm openly. The language to require production of a permit was added at the request of police who found that the existing statute did not require persons to produce their permit at the request of an officer, and were offended when people refused. However, the language specified that an officer had to have reasonable suspicion of illegal activity prior to stopping a firearm owner and requesting his pistol permit. The reasonable suspicion requirement was added as a result of firearms owners' concerns that they would be stopped and detained by police for nothing more than carrying a firearm in the open, which is legal under Connecticut law. The Connecticut State Police and other police departments have recognized that open carry is legal, and have published training bulletins to that effect.[1]

The present language must remain in the statute to comport with long standing United States Supreme Court rulings dealing with the Fourth and Fourteenth Amendments. The seminal case addressing police officers stopping people in public is *Terry v. Ohio.* The court's decision concludes that where a police officer observes unusual conduct which leads him to conclude in light of his experience that *criminal activity may be afoot*...he may stop the person and conduct a carefully limited search of the outer clothing... Concurring in the opinion, Mr. Justice Harlan noted that a police officer's right to make an on-the-street "stop" is, of course, bounded by the protections of the Fourth and Fourteenth Amendments. Mr. Justice White, in his concurring opinion, went further and noted that, while there is nothing in the Constitution which prevents a policeman from addressing questions to anyone on the streets. Absent special circumstances, the person approached may not be detained or frisked, but may refuse to cooperate and go on his way. The person stopped is not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest.

In *Hiibel v. Sixth Judicial Court of Nevada, Humboldt County*[2], the court dealt with a "stop and identify" statute. Under Nevada's and other states' similar laws, police officers are permitted to stop a person *reasonably suspected* of committing a crime, and ask him questions regarding his identity, business, and where he is going.[3] stop must be limited, justified at its inception, reasonably related in scope to the circumstances which justified the interference in the first place,[4] and cannot continue for an excessive period of time.[5] Under these principles, an officer may not arrest a suspect for failure to identify himself *if the request for identification is not reasonably related to the circumstances justifying the stop.* The U.S. Supreme Court further extended these principles to motor vehicle stops. In *Prouse v. Delaware*[6], the court dealt with the Fourth and Fourteenth Amendment implications of police stopping automobiles on a public highway to check license and registration when there was neither probable cause *nor reasonable suspicion* to believe any violations were occurring. When there is not probable cause to believe that a driver is violating any one of the multitude of applicable traffic and equipment regulations—or other articulable basis amounting to *reasonable suspicion* that the driver is unlicensed or his vehicle unregistered—we cannot conceive of any legitimate basis upon which a patrolman could decide that stopping a particular driver for a spot check would be more productive than stopping any other driver.

The same reasoning in all of the above cases applies to firearms as well. In Connecticut, whether a person possesses a concealed or openly carried firearm, a police officer is not constitutionally justified in detaining that person and demanding production of a pistol permit unless he has reasonable suspicion that the person is committing or about to commit a crime. Mere possession of a firearm is not enough to permit police intrusion into a citizen's privacy and subject him to detention, no matter how slight. As noted in *Prouse, supra*, there is no advantage to public safety and little chance in apprehending a person carrying a pistol without a permit by randomly stopping, or stopping each and every, person known or suspected of having a firearm in their possession.

The present law in Connecticut, Section 29-35(b), C.G.S., formally codifies the U.S. Supreme Court decisions over the years which require reasonable, articulable suspicion of criminal activity before a police officer my accost, question, and demand pistol permits from people known to be carrying a firearm. Legal firearms owners in Connecticut must continue to be afforded full Constitutional protections. The present language must remain intact in the statute.

The proposed change to the statute clearly violates Supreme Court decisions by eliminating "who has reasonable suspicion of a crime" and allows law enforcement to violate Supreme Court decisions and question any and all perceived to be carrying a firearm. "Such holder shall present his or her permit upon the request of a law enforcement officer [who has reasonable suspicion of a crime] for purposes of verification of the validity of the permit or identification of the holder, provided such law enforcement officer has reason to believe such holder is carrying a pistol or revolver."

Gun owners also have to exercise open carry common sense responsibility and most have done so. One solution may be for CCS and CCDL, representing gun owners, to inform members to exercise good judgment on where and how they open carry to relieve themselves of potential conflict and support law enforcement efforts.

Thank you.

[1] Connecticut State Police Training Bulletin #2013-01, page 1, "In Connecticut, there is NO state statute which makes it illegal for someone with a valid pistol permit to openly carry a pistol in plain view...". *See also*, Torrington Police Department Roll Call Training (09/2011) and Wethersfield Police Training Unit Bulletin (December 5, 2011).

[2] *Hiibel v. Sixth Judicial Court of Nevada, Humboldt County*, 542 U.S. 177 (2004)

[3] *Id.*, pp. 4, 6

[4] *Id.* at 184, citing *United States v. Sharpe*, 470 U.S. 675, 682 (1985)

[5] *Id.* at 184, citing *United States v. Place*, 462 U.S. 696, 709 (1983)

[6] *Prouse v. Delaware*, 440 U.S. 648 (1979)